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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/921,117	08/02/2001	Daniel J. Pisano JR.	2106.002USU	7072

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EXAMINER

DURAN, ARTHUR D

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 07/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/921,117

Applicant(s)

PISANO ET AL.

Examiner

Arthur Duran

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ML

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

1. Claims 1-20 have been examined.

Claim Objections

2. Claim 12 objected to because of the following informalities. Claim 12 is stated as being dependent upon Claim 12. Examiner will assume that Applicant intended for Claim 12 to be stated as being dependent upon Claim 11. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 1, 2, 7, 8, 11, 12, 18, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koreeda (5,890,137).

Claim 1, 11, 20: Koreeda discloses a method, system of providing a consumer with a shopping incentive comprising:

- (a) determining a plurality of fixed price options to purchase goods/services offered by a plurality of stores (Fig. 2; Fig. 1; Fig. 5; Fig. 6);
- (b) presenting a web page to a terminal used by said consumer wherein the web page contains one or more of said plurality of options (Fig. 2; Fig. 1; Fig. 5; Fig. 6);

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(c) establishing an identity of said consumer (Fig. 2; Fig. 7); and
(d) presenting said selected option and said consumer identity to said selected store in response to said consumer selecting, via said terminal, one of said plurality of options and one of said plurality of stores (col 2, lines 50-60; col 5, lines 55-60).

Koreeda further discloses an application computer that presents web pages to a consumer via the Internet (Fig. 1; Fig. 12; col 1, lines 5-11; col 5, lines 37-50).

Koreeda does not explicitly disclose a server.

However, Koreeda discloses service centers connected to the Internet, computers connected to the Internet that serve webpages (Fig. 1; Fig. 12; col 1, lines 5-11; col 5, lines 37-50).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to that Koreeda's computer connected to the Internet that serves webpages can be a server. One would have been motivated to do this in order to utilize a hardware terminology that is standard for computers connected to a network.

Claim 2: Koreeda discloses the method of claim 1, further comprising (e) adjusting the fixed price of one of said plurality of options if requested by one of said plurality of stores that offers said one option whose price is being adjusted (Fig. 1; Fig. 5; col 2, lines 40-44).

Claim 7, 12: Koreeda discloses the method, system of claim 1, 11, further comprising (f) determining a reimbursement to said selected store in response to receipt from said selected store of information identifying an exercise of said selected option by said consumer including the option price and a then prevailing price (Fig. 13).

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Claim 8, 18: Koreeda discloses the method, system of claim 1, 11, wherein at least one of said plurality of options is offered by a supplier of said goods/services (Fig. 11).

4. Claim 3, 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koreeda (5,890,137) in view of Fox (6,061,691).

Claim 3, 14: Koreeda discloses the method of claim 1.

Koreeda further discloses that the store controls product data such as price (Fig. 1; Fig. 5; col 2, lines 40-44).

Koreeda does not explicitly disclose that step (a) determines the fixed prices of said plurality of options from inventory data of said plurality of stores and other data deemed relevant by said plurality of stores.

However, Fox discloses that step (a) determines the fixed prices of said plurality of options from inventory data of said plurality of stores and other data deemed relevant by said plurality of stores (col 12, lines 29-40).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Fox's price adjusting based upon inventory to Koreeda's store controlled pricing. One would have been motivated to do this in order to provide prices that are relevant to a store's current business situation.

5. Claims 4, 5, 10, 13, 15, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koreeda (5,890,137) in view of Fox (6,061,691) in further view of Fortenberry (6,101,485).

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Claim 4, 5, 10, 13, 15, 16: Koreeda and Fox disclose the method, system of claim 1, 3, 11, 14.

Koreeda further discloses tracking customer personal data (Fig. 1; Fig. 7; Fig. 8; Fig. 9a).

Koreeda further discloses recording where the user made a purchase (Fig. 13; Fig. 14; Fig. 15).

Koreeda does not explicitly disclose tracking customer purchases and performing appropriate targeting.

However, Fortenberry discloses an online purchases (Fig. 1; Fig. 2).

Fortenberry further discloses that said other data includes information concerning previously selected options of said consumer (col 4, lines 11-25).

Fortenberry further discloses that said other data includes stores where said consumer has previously purchased goods/services (col 4, lines 11-25).

Fortenberry further discloses establishing a correlation between said plurality of options and one or more purchase transactions that use said plurality of options, and wherein step (a) determines additional options based on said correlation (col 4, lines 11-25).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Fortenberry's targeting to Koreeda's known user purchase information. One would have been motivated to do this in order to present product information to the user that will more likely be of interest to the user.

6. Claims 6, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koreeda (5,890,137) in view of Fox (6,061,691) and in further view of Verba (6,236,977).

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Claim 6, 17: Koreeda and Fox disclose the method, system of claim 3, 14.

Koreeda does not explicitly disclose that said other data includes marketing goals of said plurality of stores.

However, Verba further discloses that said other data includes marketing goals of said plurality of stores (col 3, lines 53-57).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Verba's marketing goals to Koreeda's product selling system. One would have been motivated to do this in order to more effectively sell products.

7. Claim 9, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koreeda (5,890,137) in view of Verba (6,236,977).

Claim 9, 19: Koreeda discloses the method, system of claim 8, 18.

Koreeda does not explicitly disclose that said supplier is a manufacturer of one of said goods/services.

However, Verba further discloses that a seller can be a manufacturer (col 1, lines 32-36).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Verba's manufacturer to Koreeda's supplier of goods. One would have been motivated to do this in order to present flexible options as to who the seller is.

Conclusion

The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

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- a. Fano (6,317, 718) discloses an online shopping mall;
- b. Ikeda (5,937,391) discloses an online shopping mall;
- c. Angles (5,933,811) discloses an online shopping mall;
- d. Messner (6,370,514) discloses an online shopping mall;
- e. Brush (5,982,372) discloses an online shopping mall.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Duran whose telephone number is (703)305-4687. The examiner can normally be reached on Mon- Fri, 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (703)305-8469. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Arthur Duran
Patent Examiner
6/29/04